

91st Illinois General Assembly

Senate Transcript

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

PRESIDENT PHILIP:

The regular Session of the 91st General Assembly will please come to order. Will the Members please be at their desks? Will our guests in the gallery please rise? Our prayer today will be given by Reverend Jeff Chitwood, Southside Christian Church, Springfield, Illinois. Reverend Chitwood.

THE REVEREND JEFF CHITWOOD:

(Prayer by the Reverend Jeff Chitwood)

PRESIDENT PHILIP:

Please remain standing for the Pledge of Allegiance. Senator Radogno.

SENATOR RADOGNO:

(Pledge of Allegiance, led by Senator Radogno)

PRESIDENT PHILIP:

Reading of the Journal. Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President, I move that reading and approval of the Journal of Wednesday, November 15, in the year 2000, be postponed, pending arrival of the printed Journal.

PRESIDENT PHILIP:

Senator Geo-Karis moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. Committee Reports.

SECRETARY HARRY:

Senator Cronin, Chair of the Committee on Education, reports Senate Joint Resolution 74 Be Adopted.

And Senator Klemm, Chair of the Committee on Executive, reports Senate Bill 1281, the Motion to Concur with House Amendments 1 and 2 Be Adopted; and Senate Amendment 1 to Senate Bill 1191 Be Adopted.

PRESIDENT PHILIP:

1

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

House Bills 1st Reading. Messages.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Parker, for what purpose do you rise?

SENATOR PARKER:

For -- for a point of personal privilege.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Can we have your attention, Ladies and Gentlemen of the Senate? Senator Parker.

SENATOR PARKER:

Thank you, Madam President, Members of the Senate. I have with me today some constituents in the President's Gallery. I would like to introduce Rona Masini and Reno Masini, and Carolyn and John Werner. And please give them a warm welcome.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

We welcome you to the Senate. Please rise. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures assigned: Refer to the Committee on Environment and Energy - House Bill 50 and Senate Resolution 436.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

On page 2 of today's Calendar is Senate Bill 1191, on -- on the Order of 3rd Reading. Senator Sullivan, do you wish this bill returned to 2nd Reading for purpose of amendment? Senator Sullivan seeks leave of the Body to return Senate Bill 1191 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is Senate Bill 1191. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 1, offered by Senator Sullivan.

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Sullivan.

SENATOR SULLIVAN:

Thank you, Madam President. This amendment simply deals with gift certificates as unclaimed property and exempts -- exempts gift certificates that have expiration dates.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any discussion? Any discussion? Hearing none, all those in favor, say Aye. All opposed, Nay. In the opinion of the Chair, the Ayes have it, and the amendment is adopted. Any further Floor amendments, Mr. Secretary?

SECRETARY HARRY:

No further amendments reported, Madam President.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. On -- Senate Bill 1869, by -- by Senator Radogno. Mr. Secretary, will you read the bill?

SECRETARY HARRY:

Senate Bill 1869.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Radogno.

SENATOR RADOGNO:

Thank you, Madam President. This will conclude the action on

the amendment that we adopted yesterday. And it simply extends the deadline for the Recycled Content Products Task Force to December 31st, 2001. Excuse me, it -- yes, 2001.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any further discussion? Any further discussion? Hearing none -- hearing none, the question is, shall Senate Bill 1869 pass. Those in favor will vote Aye. Opposed will vote Nay. The voting's open. Have all voted who wished? Have all voted who

3

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

wished? Have all voted who wished? Take the record, Mr. Secretary. On that question, there are 56 voting Aye, none voting Nay, none voting Present. And this bill, having received the required constitutional majority, is hereby declared passed. Senate Bill 1975. Senator Myers? Mr. Secretary, read the bill.

SECRETARY HARRY:

Senate Bill 1975.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

Thank you, Madam President, Ladies and Gentlemen of the Senate. This bill actually is dealing with a suit that was brought by the Miami Indian tribe against four individual landowners in -- fifteen individual landowners in fifteen counties. The content of this bill, I will very carefully describe to you. The bill allows the Attorney General to authorize, from funds available for that purpose, the payment or -- reimbursement of reasonable and appropriate legal fees incurred by any person, unit of local government, or school district in defending any litigation, action or proceeding brought to recover lands within the State from each person, unit of local government, or school district, if the litigation, action, or proceeding is based upon an allegation that the title or a beneficial interest in the title is derived from an invalid federal land patent and the Attorney General finds that a loss of State sovereignty or jurisdiction over those lands or liability for rents or damages may result if the land patent is held to be invalid. This is an important bill because there are fifteen of our residents who represent fifteen counties in the Wabash River Watershed, which includes 2.6 million acres. So although those fifteen people are the folks who are

named in this lawsuit, this lawsuit has, perhaps, far-reaching consequences of beyond those people and of all of those millions of acres in the State of Illinois. I would ask that you consider this bill very carefully and that you take positive action on this bill. And I would be happy to answer any questions that any Member might have.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any further discussion? And please may -- may we have order in this Assembly? This is a very important bill. Senator Noland.

SENATOR NOLAND:

Thank you, Madam President. I rise in support of this bill. Three of the defendants live in my district, and -- and two are quite elderly. And to think about living on -- on farms or a -- or a home for seventy or eighty or ninety years and finding out that a federal treaty that was signed before we were even a State could now take away your home or your property. Some of the residents are just literally beside themselves. They -- they're elderly; they -- they fear for their homes; they're confused. They're afraid they couldn't sell or make -- make changes to property. So we need to rise to the occasion and support these fifteen defendants, put this issue to bed, and then protect the -- the State and its sovereignty. Thank you.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Lauzen.

SENATOR LAUZEN:

Thank you, Madam President. Just a couple of questions for the sponsor. First of all, I am very sympathetic to the -- the situation and the property rights of the defendants in this case. Is there any cap on the expense that's being proposed in this

bill? Are there any upper limits to what might be expended in this court case?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

5

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Senator Myers.

SENATOR MYERS:

This is an interim measure, because this lawsuit is ongoing at this present time, to take care of some bills that are now pending for these fifteen people who are taking the brunt of the lawsuit for all the rest of the residents in this very large area.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Lauzen.

SENATOR LAUZEN:

The question that I asked was: Is there any upper limit? First of all, if this is an interim measure, can you quantify the amount that -- that this will be limited to and no more?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

There is no limit in the bill. The expectation is that it will be fifty thousand dollars or less.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers, would you repeat what you just said?

SENATOR MYERS:

Yes, I will be happy to do that, Senator Lauzen. We -- there -- there -- it is expected that it would -- the cost of this would be fifty thousand dollars or less.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Lauzen.

SENATOR LAUZEN:

The reason I -- and -- and I would ask you, what assurance is there that it's fifty thousand dollars or less? Because I understand, and I have not had a chance to research, that there is a twenty-five-year case in New York, where they've been fighting something similar to this for twenty-five years. An offer has been made to finally compromise that, of five hundred million

6

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

dollars. It's been turned down. I mean, really, kind of wild thing. And this is -- this could be just the beginning of a really big issue. So can you tell us: What is in place to protect it going beyond fifty thousand dollars?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

The Attorney General has assured us that they will make sure that the costs are reasonable, they will certainly look at the costs as they occur, and that they will have oversight, as will the Governor's Office. But, particularly, the Attorney General will make sure that those costs are reasonable. That is in the bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Lauzen.

SENATOR LAUZEN:

Thank you very much. That is very helpful. So is this case -- and that was going to be my final question. Was -- and I understand the State of Illinois interest in this. Is this a court case that is pursued by the Attorney General or by private companies?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

The State is seeking, in federal court in the U.S. Southern District, to intervene in this case. And that case is still pending in that federal court. So I can't answer the question because it is in a federal jurisdiction and -- and the -- the motion to intervene has not been answered at this point.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Lauzen.

SENATOR LAUZEN:

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Final question: Will this money be spent in the Attorney General's Office? Is the Attorney General going to take this case, or is this money going out from the State Treasury to the attorneys for these property owners?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

The money in this bill -- the -- the landowners have -- have had meetings. They have grouped together to have one attorney represent them. The money in this bill will go directly to that one attorney. It was determined in meetings with the landowners that this was a responsible way for them to proceed. That is what they have decided to do.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Jacobs.

SENATOR JACOBS:

Thank you, Mr. {sic} President, Ladies and Gentlemen of the Senate. Would the sponsor yield?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

She said she will.

SENATOR JACOBS:

Senator, I -- I really -- you know, I understand what we're trying to do here, but I do have one small concern...

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Would you -- would you wait, Senator Jacobs? Can we please have your attention? Senator Jacobs is speaking. Thank you.

SENATOR JACOBS:

Thank you, Madam President. Are -- are we establishing a precedent here? I mean, we are using State funds to protect individual rights. And I understand the overall benefit to the State and -- and some of the consequences that may happen, but are we opening a door for someone else to come in under some other

8

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

circumstances and say, "Hey, we're private landowners and somebody's trying to take our land," and so the State's going to bail them out and come in and take care of their legal fees?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

In this particular bill, there is a -- is a -- a part that says that it must imply some threat to State sovereignty. So that is what the bill states.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Petka.

SENATOR PETKA:

Thank you very much, Madam President. Having had the opportunity to sit in on the committee hearing in connection with this - and, unfortunately, all Members of the Senate did not have that opportunity - I think there are a couple of points that simply need to be made. First of all, these landowners who ended up on the bottom of the -- of the chain of title received and traced back their -- their title to the State of Illinois. The State of Illinois had received that land from the federal government when, on December 3rd, 1818, they joined the Union. So, in a very real and direct way, what we are doing here, or attempting to do, is to place the faith of the State of Illinois behind a conveyance that was made to the forerunners and ancestors of those people who stand in title. What -- what is being alleged in the complaint that was filed is that there is a defective title. So, unfortunately, these people do not have title insurance. But without knowing their specific circumstances, it may be that they never had to purchase it because the land had came down to the current landowners by descent traced back to the -- the State of Illinois in the original conveyance. So what the State is doing, in a very real way, is defending its own action

SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

that was taken in granting this land. It's an appropriate use - and I can't think of a more appropriate use - of taxpayer monies to -- to ratify an action that was taken by our -- our forerunners in this State, and so that's why I stand in strong support of this legislation.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Yes. Sponsor yield for a question, please?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

She indicates that she will.

SENATOR DEMUZIO:

In committee -- I don't -- I don't recall. Did -- did you say a minute ago that the Attorney General has intervened in this case already or is considering intervening in this case? And if so, is that contingent upon whether or not we in the Legislature are going to appropriate dollars for the -- for the attorneys? Has the -- has the Attorney General intervened in this case formally?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers. Senator Myers.

SENATOR MYERS:

The Attorney General has filed in federal district court to intervene. But that issue is a separate issue from the issue we are -- we are -- the bill that we are considering today.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, I understand that the court hasn't agreed whether or not to allow the -- the Attorney General to intervene. Is there a separate court case that, somehow or other, we need to authorize him to hire an attorney and then come back later on and figure out what the appropriation is going to be to hire that person or -- or

10

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

firm?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

This particular bill is for the attorney who is representing ten of the fifteen landowners. They're the landowners who are not represented by title insurance.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Demuzio.

SENATOR DEMUZIO:

Well, if the Attorney -- Attorney General is going to intervene, then why do we want to be paying a private attorney for the ten landowners? I mean, if the Attorney -- why -- why would we want to be paying both the Attorney General and a private firm

from these ten individuals in this case? I am confused.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

If the intervention is allowed, that has nothing to do with the suit that is filed against these fifteen individual landowners. It's a limited intervention.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Demuzio.

SENATOR DEMUZIO:

What are we intervening in?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

We are -- we are intervening in the suit, in that the Miami tribe has declared that they are the -- or, are declaring in this suit that they're the sovereign owners of these 2.6 million acres.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

11

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Senator Demuzio.

SENATOR DEMUZIO:

And the Attorney General wants to intervene in that case?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

That is correct, because it is an issue of State sovereignty.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Demuzio.

SENATOR DEMUZIO:

Why would we want to pay a private attorney for the other ten landowners that are in there, if the Attorney General is already going to be in that -- in that case as well? It's the same case, is it not?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

It is obvious that -- that private landowners are not in as good a position to defend this lawsuit as the State of Illinois. And the private landowners are dealing with the issues of a suit against their private property. However, there are fifteen counties involved. There are 2.6 million acres involved.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Demuzio.

SENATOR DEMUZIO:

I guess that's my point. I -- I didn't really understand this fully when this thing was in committee. But if the Attorney General is granted, by the federal court, an opportunity to intervene, he's already in there. Then he would just simply come to the General Assembly, at some point, to ask for either that to

be included in his budget for next year or for a supplemental appropriation. Then why would we want to -- why would we want to

12

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

hire a -- another private attorney for the ten landowners if the Attorney General's already intervened in the case? I must tell you, I'm going to have to ask some staff here because you got me confused.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator -- excuse me. Senator Emil Jones.

SENATOR E. JONES:

Yeah. Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

She indicates that she will.

SENATOR E. JONES:

Senator Myers, now, the -- the State of Illinois is sovereign. So, therefore, the AG, the Attorney General, cannot sue -- cannot be sued. So, therefore, why are they trying to intervene?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

We -- we have not given up our sovereign immunity for the State of Illinois. The -- the Attorney General cannot represent private landowners. That is not in the purview of the Attorney General.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Jones.

SENATOR E. JONES:

Okay. So what we are attempting to do in this legislation is to pay for private attorneys in a suit by the -- by the Miami Indians toward these individuals. Am I correct?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

That is correct.

13

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Jones.

SENATOR E. JONES:

Could you tell the Body what amount or is there a cap as to the amount these attorneys are to be paid? And could you tell us anything about that - how much money it's going to cost?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

I -- I'm sorry. Perhaps -- that question was answered, but I don't think that you were on the Floor. The -- it is estimated that fifty thousand dollars or less is the amount of money that we're -- we are considering at this point.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Jones.

SENATOR MYERS:

It's an...

SENATOR E. JONES:

Well, my comment to the bill simply is this: And we -- we went through something similar with the AG's Office as relate to private attorneys, and we -- on the tobacco settlement. And we enter into contract with private attorneys and -- with no cap and nothing specified in the legislation and all of a sudden we are thrown with a big bill, then you come back and try and change it. I don't think we should be in the posture of doing this, as relate to these landowners. I don't think we should be in the posture of entering in a fight between private parties and have the State pick up the bill. The AG's Office is not involved in this. They can be involved. But we should not be involved in the -- in the process of trying to pay for private suits between two -- two -- two private parties. We went through this. And -- and Members on your side of the aisle came back and said, "Oh, this is too much

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

money. We shouldn't be paying that amount of fees. Those attorneys should not be getting this." It should be written into the bill. And I urge a No vote.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Madam President. Would the sponsor yield?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

She indicates that she will.

SENATOR HENDON:

Thank you. Senator Myers, I just want to be clear on a few points, because I wasn't quite clear on them when I heard your initial answer. The -- do the private owners have problem with title to the land?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

That is the allegation, and there have -- that is the allegation, that they could have problems with the transfer of their land. I have had folks who have been selling their property, even those not the fifteen that are named in the suit, who have told me personally that there would be a notation on their title policies because, although it is fifteen landowners

only in fifteen counties, there is certainly some indication that there could be a problem in all of the counties.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Hendon.

SENATOR HENDON:

So there are -- how many additional landowners could there possibly be? Two hundred, or more?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

15

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

SENATOR MYERS:

...be -- it would be owners in 2.6 million acres. I don't have an accurate figure. It has been indicated to me that that could be at least two hundred thousand people.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Hendon.

SENATOR HENDON:

Could in -- so there -- and there are no caps at all on how much these claims or the -- the lawsuits could actually cost the taxpayers of Illinois. Is that correct?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

This bill is an interim bill because there have been expenses that have been incurred to date. So this is an interim bill. There will be a follow-up bill with a more specific number for you to consider.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Hendon.

SENATOR HENDON:

Could you -- could you share with the Senators here how much that has been thus far, that amount?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

Yes. I'd be happy to. The amount to date is thirty-five thousand dollars. Thirty-five thousand dollars.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Hendon.

SENATOR HENDON:

Well, I just -- I just have a problem with us stepping in for private owners in -- in a case -- in a situation like this. I

think that -- I'd like to know from you: When caps came before this Body dealing with legal fees, last year or so, did you take any position on those at that time?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

Would you repeat the question, please?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Would -- would you repeat the question, Senator Hendon?

SENATOR HENDON:

Certainly. When the issue of -- of caps in -- in legal cases in Illinois came up a year or so ago, did you take any position at all with -- for or against the attorneys?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

...this case, I'm not -- we are going to come back to you with a cap in subsequent legislation.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Hendon.

SENATOR HENDON:

Allow me to close by saying, you -- you -- you can't have it both ways. If you were for caps before when it was attorneys in this State and -- and claims with medical bills or whatever, you were for those. But now that it may benefit someone that you support, you -- you have no limits. There are no limits on this bill. It could cost a million dollars. It could cost a billion

dollars. We don't know. You can't have it both ways. I urge a
No vote.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Walsh.

SENATOR T. WALSH:

17

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Thank you, Madam President. I move the previous question.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

The question -- the previous question has been moved. We have
two people. Senator Molaro.

SENATOR MOLARO:

Thank you, Madam President. Would the sponsor yield for a
question? Senator, you said earlier that this...

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Can we have your undivided attention to Senator Molaro?

SENATOR MOLARO:

Thank you. I'm not feeling too well this morning. Little
tired. You said there were ten people this may affect, who are
not covered by title insurance. Yeah, you're shaking your head,
so that means yes. Therefore, that presupposes that there are a
bunch of folks out there who are either part of this lawsuit or

separate lawsuits that were covered by title insurance. Okay. Do you have any idea how many other people in this area are being sued in like situation but are covered by title insurance? Would you have any idea?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers.

SENATOR MYERS:

There -- are you asking how many in the lawsuit are covered by title insurance? Five of them have title policies. Many of these people have owned the land for a very long time, and in some cases, I think they've had the land through more than one generation, particularly the farmland. That's why they don't have title insurance.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Molaro.

SENATOR MOLARO:

Okay. Well, you know, I guess the problem I'm having -- I'm

18

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

having a different problem than my colleagues, because I think with the wording "when our sovereignty's at stake" -- I thought in committee, and even talking to one of our staffers, that maybe

there'd be some slippery slope here and Senator Jacobs' concerns. But with the sovereignty at stake, there's not going to be too many lawsuits where the State sovereignty is going to be at stake. So this is pretty narrow and I will give you that. And so I'll go to a different question. The problem I -- the -- the small problem I'm still having is that we have these people covered by title insurance; so that means, I would assume, that the title insurance company is going to pay for their lawyers. So they're not out of pocket any money because their insurance covers it. But the other ten people who either didn't buy it, weren't able to buy it 'cause they bought it so long ago, before title insurance were around, they're going to have to take the money out of their pocket. So it's almost like the five people with title insurance, they're going to have their lawyers - and I'm assuming they're going to hire good ones - to be in there to fight this lawsuit. So when the Senator from Will County gets up and says that the State should have a stake in this, well, I agree they should. If the judge doesn't let the Attorney General intervene on our behalf, the State's behalf, then I guess what we're saying here by this bill is, the next best thing is to let these landowners get a private attorney and we, the taxpayers, will pay for that private attorney. Because if we don't pay for the private attorney, I guess the point is, they wouldn't have any or they wouldn't be able to pay for good counsel? Well, what I submit is that the other five or six or eight that have title insurance are going to have good counsel. They're going to be arguing these issues. Our -- our rights and our sovereignty will be represented by the counsel from the other people. Now, in these seven or eight other -- or, these ten other landowners, I think what we need to do --

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

think what we need to do with this bill - and if it passes, maybe we can think of an amendment in the House - I think you still have to show the financial burden from the landowners. The landowners have pieces of property that are worth money and, in some case, may be worth millions of dollars. I don't know if it's just some ma and pa with a seventy thousand piece -- dollar piece of property or if it's farmland worth ten million and they just don't have title insurance. So if we say it's going to be -- we think it's going to be capped at fifty thousand, and that's what was just said, then, therefore, if there's ten people, it's five thousand dollars each. So if these people are landowners and we already have attorneys in the suits, then they're just out five or six thousand dollars each, and we're coming to the State Legislature to pass legislation on something we've probably never done so we can reimburse ten landowners five thousand dollars each, and we don't even know if there's a showing of need. Even when I go to criminal court and there's some defendant who has to -- his rights -- who's just accused, he has to show a need. He has to show that he's not a millionaire landowner before the State ponies up his five thousand dollars for his defense. I think what

we need to show here is that there is an absolute need by these landowners that - using your figure, Senator - that we think it's going to cost fifty thousand dollars. And if we divide it by ten, that's five thousand each. I think we need to show, before we put legislation like this, that there is a need by the landowners, that we're not giving State money to millionaire landowners. I don't know who they are, and maybe they are just some poor, you know, folks out there that couldn't afford a hundred dollars, but I still would have to see that before I would be able to vote Yes on this bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Last speaker, Senator Klemm.

20

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

SENATOR KLEMM:

Yeah. Thank you, Madam President. I'll try to make it brief. But we're talking about 2.6 million acres that an Indian tribe says they have sovereignty over the State of Illinois. Talking about over a quarter of a million people. That -- when you look at fifteen property owners, that's really a test case, isn't it? We've got property that -- University of Illinois is included in this 2.6 million acres. It would seem to me that this test case,

if they were to win one or two of those test cases in various circuit courts or wherever they're going, this certainly sets a precedent for all the other landowners in that whole area, plus counties and parks and everything else. It really confuses who has the sovereignty and who has the control and who has the jurisdiction, and maybe tax receipts and everything else. I don't know. But it seems to me, when we were in Executive Committee hearing testimony, this is really critical that we don't have some property owner lose a case because they didn't have adequate representation for the State sovereignty. Now, a lot of our lawyer friends are excellent people in real estate. They may not go that deep of 1818, when we became a State of Illinois. They may not have that knowledge. At least the Attorney General's Office can give that guidance. They can look and find out if they've got adequate counsel. Because if they only win five out of the ten, we've got some problems, because we've got different circuits saying that that land now belongs to -- the Miami tribe. I think it's a serious problem. It's not rich versus poor. It's not rich lawyers versus that. It's really looking at Illinois for a change of 2.6 million dollars {sic}. I think Senator Myers is -- is correct in trying to keep this impact down where it's controllable, where we can at least have a chance to win, because you know they don't have that right to take the land over after all these years. So I would support this. I hope you will stop

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

and think of what the impact is if we don't, if we lose this case.
And I stand in support of the amendment.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Myers, to close.

SENATOR MYERS:

This bill is a very important bill. In the suit, it has picked fifteen landowners, one from each county, supposedly at random. Most of the people involved in this lawsuit are not wealthy people. And in a meeting that I went to when they first were trying to group together, there are great concerns to them. They can't afford even a thousand dollars or five thousand dollars to represent themselves. Is it fair of us to put the burden for 2.6 million acres upon fifteen people who perhaps cannot afford to take on that kind of responsibility? I urge you to support the citizens of this State in what could be a more far-reaching lawsuit. Let's deal with it now. Let's deal with it with fifteen landowners, and let's give them the help that they need. In my district, a lot of which is included in this land area, it isn't just those fifteen landowners who are concerned about this suit. It's all of the people who are worried about being able to transfer their property without a cloud on the title. I would tell you that this is very important. It is an issue of people who did not ask to be part of a suit and who are very upset and who need some support from the State of Illinois. I would urge

you to consider them, consider the size of this land mass and vote Yes on this very important piece of legislation.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

The question is -- the question is, shall Senate Bill 1975 pass. Those in favor will vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 39 voting Aye, 17 voting Nay, 1 voting

22

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Present, 2 not voting. And this bill, having received the required three-fifths majority, is declared passed. Senator Noland.

SENATOR NOLAND:

Madam President, behind me in the gallery are seventy-five fourth-grade students from my district, from the fine district of Maroa-Forsyth schools. I'd -- please if the Senate would welcome them.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

We welcome the students from the fourth grade in Senator Noland's district. Senator Shaw.

SENATOR SHAW:

Yes. Thank you, Madam President. Inadvertently I punched the wrong button. But I'd like to be recorded -- the record to show that I would have voted No.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

The record shall so reflect, sir. Thank you. On the -- on the -- the top of page 2, Senate Bill -- 3rd Reading, Senate Bill 1191. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 1191.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Sullivan.

SENATOR SULLIVAN:

Thank you, Madam President.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Just a moment, Senator Sullivan. We -- we plead your indulgence of attention. Thank you. Senator Sullivan.

SENATOR SULLIVAN:

Thank you, Madam President. Senate Bill 1191 is an agreement

between the Retail Merchants and the Treasurer's Office, dealing with unclaimed property, and it has to do with gift certificates. It's consumer-friendly, so the consumers won't be confused about when gift certificates become unclaimed property. I ask for an Aye vote.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Is there any further discussion? Any further discussion? Hearing none, the question is, shall Senate Bill 1191 pass. Those in favor, vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wished? Have all voted who wish? Have all voted who wished? Take the record. On that question, there are 58 voting Aye, none voting Nay, none voting Present. This bill, having received the required constitutional majority, is hereby declared passed. Page 2, House Bills 2nd Reading. Senator Emil Jones. Would you read the bill, Madam Secretary? 1284.

ACTING SECRETARY HAWKER:

House Bill 1284.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 3612. Senator Klemm. Read the bill, Mr. Secretary -- Madam Secretary.

ACTING SECRETARY HAWKER:

House Bill 3612.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted Committee Amendment No. 1.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Have there been any Floor amendments approved for consideration?

ACTING SECRETARY HAWKER:

24

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

No further amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 3617. Senator Philip. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

House Bill 3617.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted Committee Amendment No. 1.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any Floor amendments?

ACTING SECRETARY HAWKER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 3619. Senator Peterson. Read the bill, Madam Secretary. Out of the record. House Bill 4267. Myers. I'm sorry. Senator Petka. Read the bill. 4267.

ACTING SECRETARY HAWKER:

House Bill 4267.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Judiciary adopted
Committee Amendment No. 1.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any Floor amendments?

ACTING SECRETARY HAWKER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 4279. Senator Roskam. Read the
bill, Madam Secretary.

ACTING SECRETARY HAWKER:

House Bill 4279.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

25

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Any...

ACTING SECRETARY HAWKER:

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Judiciary adopted
Committee Amendment No. 1.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any Floor amendments?

ACTING SECRETARY HAWKER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 4659. Senator Philip. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

House Bill 4659.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. House Bill 4663. Senator Klemm. Would you read the bill, Madam Secretary?

ACTING SECRETARY HAWKER:

House Bill 4663.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted Committee Amendment No. 1.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any Floor amendments?

ACTING SECRETARY HAWKER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

3rd Reading. Ladies and Gentlemen of the Senate, we will now proceed to Executive Session for the purpose of advice and

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

consent. Senator Petka.

SENATOR PETKA:

Thank you, Madam President. I move that the Senate resolve itself into Executive Session for the purpose of acting on the Governor's appointments set forth in his Messages of June 19, 2000, November 9, 2000. Madam President, with respect to the Message...

PRESIDING OFFICER: (SENATOR GEO-KARIS)

You've heard the motion. All in favor say Aye. Opposed, Nay. The Ayes have it. The motion carries, and we are in Executive Session. Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senator Petka, Chair of the Committee on Executive Appointments, to which was referred the Governor's Message of June 19th, 2000, reported the same back with a recommendation the Senate advise and consent to the following appointment.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Petka.

SENATOR PETKA:

Madam President, with respect to the Message of June 19th, 2000, I will read the non-salaried appointment to which the Senate

Committee on Executive Appointments recommends that the Senate do advise and consent:

Steven B. Scheer, of River Forest, to be a member of the Health Care Cost Containment Council for a term ending September 5th, 2002.

Madam President, having read the non-salaried appointment from the Governor's Message of June 19th, 2000, I now seek leave to consider the appointment of June 19th on a roll call. Will you please put that question as required by our rules?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any discussion? Hearing none, the question does -- is, does

27

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

the Senate advise and consent to the nomination just made. Those in favor, vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wished? Have all voted who wished? Have all voted who wished? Take the record. On that question, there are 58 voting Aye, none voting Nay, none voting Present. And a majority of Senators elected concurring by record vote, the Senate does advise and consent to the nomination just made. Senator Petka. I'm sorry. Committee Reports, Mr. Secretary.

SECRETARY HARRY:

Senator Petka, Chair of the Committee on Executive Appointments, to which was referred the Governor's Message of November 9th, 2000, reported the same back with the recommendation the Senate advise and consent to the following appointments.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Petka.

SENATOR PETKA:

Thank you, Madam President, with respect to the Message of November 9, 2000, I'll read the salaried appointments of which the Senate Committee on Executive Appointments recommends that the Senate do advise and consent:

To be a member of the Chicago Transit Authority for a term ending September 1st, 2007, Doug Donenfeld, of Chicago, and Alan Drazek, of Morton Grove.

To be a member of the Civil Service Commission for a term ending March 1st, 2005, Raymond Ewell, of Chicago; Bobby {sic} (Barbara) Peterson, of Beecher.

To be a member of the Court of Claims for a term ending January 16, 2006, Richard Mitchell, of Jacksonville.

To be a member of the Educational Labor Relations Board for a term ending October 17, 2006, Michael Prueter, of Naperville; Lynne Sered, of Evanston.

To be Assistant Director of the Illinois Department of Central

SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

Management Services for a term ending January 15, 2001, Lula Mae Ford, of Chicago.

To be Assistant Secretary of the Illinois Department of Human Services for a term ending January 15, 2001, Daniel Miller, of Springfield.

To be a member of the Illinois Human Rights Commission for a term ending January 15, 2001, Leroy A. Jordan, of Springfield.

To be a member of the Illinois International Port District Board for a term ending June 1st, 2005, Rita Mullins, of Palatine.

To be a member of the Illinois (Labor) Relations Board; State Panel for terms ending January 28th, 2002, David Barkhausen, of Lake Bluff; Michael McCormick, of Champaign.

To be a member of the Illinois Labor Relations Board; State Panel for a term ending January 27, 2003, Sandra Tristano, of -- of Glenview.

To be a member of the Illinois Labor Relations Board for a term ending January 26, 2004, Peter P. Zelkoff, of Lombard.

To be a member and Chairman of the Illinois Liquor Control Commission for a term ending February 1st, 2006, Don Adams, of Springfield.

To be members of the Liquor Control Commission for a term ending February 1st, 2006, Robert E. Hayes, of Hopkins Park; James Hogan, of Palos Hills; Lillibeth Lopez, of -- of Chicago.

To be Deputy Commissioner of the Office of Banks and Real Estate for a term ending February 1st, 2004, Daniel S. Karnatz, of Villa Park.

To be a member of the Pollution Control Board for terms ending July 1st, 2003, Tanner Girard, of Jacksonville; Nick Melas, of Chicago.

To be members of the Prisoner Review Board for terms ending January 16, 2006, Arvin Boddie, of Chicago; Norman Sula, of Naperville.

29

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

To be a member of the State Board of Elections for a term ending June 30th, 2001, Albert S. Porter, of Chicago.

Madam President, having read the salaried appointments from the Governor's Message of November 9th, 2000, I now seek leave to consider the appointment of November 9th, 2000, on roll call. Madam -- on a single roll call. Madam President, will you put the question as required by our rules?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

The question is, does the Senate advise -- further -- I'm sorry. Is there any further discussion? Hearing none, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Those opposed, vote Nay. The -- the voting is open. Have all voted who wished? Have all voted who wished? Have all voted who wished? Take the record.

On that question, there are 58 voting Aye, none voting Nay, none voting Present. And a majority of Senators elected concurring by record vote, the Senate does advise and consent to the nominations just made. Senator Petka.

SENATOR PETKA:

Thank you, Madam President. A point of information for the Body. My office has received a number of inquiries with regard to the appointment of Gerald E. Berendt. The Governor's Message dated and journalized on March 28, 2000, appoints Mr. Berendt to be a member and Chairman of the Educational Labor Relations Board for a term ending February 1st, 2006. Seventeen Session days have passed since the receipt of the Governor's Message dated March 28th, 2000. Madam President, I now move that the Senate arise from Executive Session.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

You've heard the motion. Those in favor, say Aye. The opposed, Nay. In the opinion of the Chair, the Ayes have it. The motion carries. Resolutions.

30

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

SECRETARY HARRY:

Senate Resolution 447, offered by Senator Shaw and all

Members.

It's a death resolution, Madam President.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Consent Calendar. We will now proceed to the Order of Resolutions on the Consent Calendar. With leave of the Body, all of those read in today will be added to the Consent Calendar. Mr. Secretary, have there been any objections filed to any resolution on the Consent Calendar?

SECRETARY HARRY:

No objections have been filed, Madam President.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any discussion? If not, the question is, shall the resolutions on the Consent Calendar be adopted. All those in favor, say Aye. Opposed, Nay. In the opinion of the Chair, the Ayes have it. The motion's carried and the resolutions are adopted. Resolutions.

SECRETARY HARRY:

Senate Joint Resolution 76, offered by Senator Weaver.

(Secretary reads SJR No. 76)

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Weaver has moved for the adoption of the Joint -- to suspend the rules for the purpose of the immediate consideration and adoption of Senate Joint Resolution 76. Those in favor, say Aye. Opposed, Nay. The Ayes have it. The rules are suspended. Senator Weaver has moved for the adoption of Senate Joint Resolution 76. Those in favor, say Aye. Opposed, Nay. The Ayes have it, in the opinion of the Chair, and the resolution's adopted. Is there any further business to come before the Senate?

If not, pursuant to the adjournment resolution, Senator Myers moves the Senate stand adjourned until noon, Tuesday, November 28,

31

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

November 16, 2000

2000. Happy Thanksgiving to everyone.

